

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

RAEMON PARDUE,

Petitioner,

v.

JOHN MARSHALL, Warden,

Respondent.

Case No. CV 10-01774 AHM (AN)

ORDER APPROVING AND ADOPTING  
AMENDED REPORT AND  
RECOMMENDATION OF  
UNITED STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636, the court has reviewed the file, including the Magistrate Judge's Amended Report and Recommendation ("Amended R&R") and Petitioner's Objection thereto, *de novo*.

IT IS ORDERED that:

1. Petitioner's Objection is overruled for the following reasons. His assertion that his due process parole claim "does not contest his March 5, 2009 parole hearing" but instead challenges an alleged breach of contract by the state (Objection at 1) is untrue. (*See* Pet. at 2, 5, 33, 36-44, 71-73.) Further, to the extent Petitioner supplemented his principal due process parole claim with a perfunctory contractual claim in the Reply, as stated in the Amended R&R, there is no evidence supporting Petitioner's assertion that there was any promise or contract made in contradiction to his life sentence. The record clearly shows Petitioner was sentenced to a term of life with the possibility of parole in this case (LD 1), and that indeterminate sentence is in legal effect a sentence for the maximum term unless the Board acts to fix a shorter

1 term. *In re Dannenberg*, 34 Cal. 4th 1061, 1097-98, 23 Cal. Rptr. 3d 417 (2005); *see*  
2 also *People v. Felix*, 22 Cal. 4th 651, 657-59, 94 Cal. Rptr. 2d 54 (2000) (for purposes  
3 of California's Determinate Sentencing Act, "both straight life sentences and sentences  
4 of some number of years to life are indeterminate sentences . . .").

5 Moreover, in light of *Swarthout v. Cooke*, 562 U.S. ---, 131 S. Ct. 859 (2011),  
6 Petitioner has not established any basis for concluding the California courts' rejection  
7 of his federal due process parole claim was contrary to, or involved an unreasonable  
8 application of, clearly established Supreme Court law.

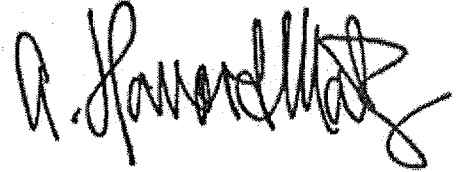
9 2. The Amended R&R is approved and adopted

10 3. Judgment shall be entered denying the Petition and dismissing this action  
11 with prejudice.

12 4. All motions are denied as moot and terminated.

13 IT IS FURTHER ORDERED that the clerk of the court shall serve a copy of this  
14 Order and the Judgment on all counsel or parties of record.

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16 Dated: November 3, 2011



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18 A. HOWARD MATZ  
19 UNITED STATES DISTRICT JUDGE  
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